IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO. 73 OF 2007
IN
SUMMARY SUIT NO. 1077 OF 2005
WITH
SUMMONS FOR JUDGMENT NO. 74 OF 2007
IN
SUMMARY SUIT NO. 1327 OF 2005

Mr. Ashokkumar V. Pasad. ... Plaintiff.

V/s.

Mr. Sahadev Vakhuba Jadeja ... Defendant.

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Mrs. P.U. Badadare i/b. L.M. Acharya for the Plaintiff.
Mr. P.V. Palan for the Defendant.

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CORAM : DR. D.Y.CHANDRACHUD,J.

03rd April 2007.

P.C. :

. A decree was passed in this case by an order dated 17th August 2005. On a motion taken out by the Defendant, the decree was set aside by consent on 27th November 2006 subject to the Defendant depositing an amount of Rs.1,50,000/- The amount has been deposited and in pursuance of the order dated 27th November 2006, the amount has been invested in a fixed deposit of a nationalised bank. The defence in paragraph 4 of the affidavit in

reply in the Summons for Judgment is that the Plaintiff was a finance broker to whom certain blank documents have been furnished. While the Defendant admits his signature, it has been stated that the contents have been fraudulently and dishonestly filled in by the Plaintiff. It has been averred that the blank forms were handed over to the Plaintiff to enable the Plaintiff to procure a loan required by the Defendant for carrying on his business. According to the Defendant when the business was closed down, he called upon the Plaintiff to return the blank forms and it now appears that they have been misused. No rejoinder has been filed.

2. In defence, the Defendant has raised triable issues. The Defendant is accordingly granted leave to defend the suit. Counsel appearing on behalf of the Defendant however has no objection to the amount, which has been deposited in pursuance of the order dated 27th November 2006, continuing to remain in fixed deposit during the pendency of the suit. The Written Statement will be filed within a period of 8 weeks from today. The amount deposited

in pursuance of the order dated 27th November 2006 shall continue to remain invested in a fixed deposit in a Nationalised Bank pending disposal of the suit. The Summons for Judgment is accordingly disposed of.